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The Growing Regulation of Conversion Therapy

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Abstract

Conversion therapies are any treatments, including individual talk therapy, behavioral (e.g. aversive stimuli), group therapy or milieu (e.g. “retreats or inpatient treatments” relying on all of the above methods) treatments, which attempt to change an individual’s sexual orientation from homosexual to heterosexual. However these practices have been repudiated by major mental health organizations because of increasing evidence that they are ineffective and may cause harm to patients and their families who fail to change. At present, California, New Jersey, Oregon, Illinois, Washington, DC, and the Canadian Province of Ontario have passed legislation banning conversion therapy for minors and an increasing number of US States are considering similar bans. In April 2015, the Obama administration also called for a ban on conversion therapies for minors.

The growing trend toward banning conversion therapies creates challenges for licensing boards and ethics committees, most of which are unfamiliar with the issues raised by complaints against conversion therapists. This paper reviews the history of conversion therapy practices as well as clinical, ethical and research issues they raise. With this information, state licensing boards, ethics committees and other regulatory bodies will be better able to adjudicate complaints from members of the public who have been exposed to conversion therapies.

Keywords

conversion therapy; ethics; gay; homosexuality; lesbian; legislative bans; licensing; LGBT; psychiatry; psychotherapy; reparative therapy; sexual orientation; sexual orientation change efforts (SOCE); state policies

INTRODUCTION

On April 8, 2015, the Obama administration called for an end to conversion therapies that seek to change a person’s sexual orientation or gender identity. The White House issued a statement saying, *“As part of our dedication to protecting America’s youth, this Administration supports efforts to ban the use of conversion therapy for minors.”*[1] This unprecedented announcement occurs at a time when California, New Jersey, Oregon, Illinois, Washington, DC, and the Canadian province of Ontario, have banned such therapies

undertaken by licensed professionals for minors. In addition, 17 states have seen bills introduced into their legislatures also seeking to ban these therapies.

This growing trend toward banning conversion therapies creates novel challenges for licensing boards and ethics committees, most of which are unfamiliar with the issues raised by complaints against conversion therapists. In an effort to close that knowledge gap, this paper outlines the state of current research and ethical considerations surrounding conversion therapy.

BACKGROUND

Karl Maria Kertbeny, a Hungarian writer, and Richard von Krafft-Ebing, a psychiatrist, first used the terms “homosexual” and “homosexuality” in the 19th century, though they disagreed on the term’s moral implications.[2,3] Their early differences presages an ongoing argument that continued into the middle of the 20th century, where two major competing theoretical views of homosexuality predominated: that of psychoanalysis, a field dominated by psychiatric physicians, and that of academic sexology research.

Sigmund Freud, the father of psychoanalysis, offered a view of homosexuality as a developmental arrest, a form of “immaturity,” in which normal sexual instincts of childhood persist into adulthood.[4] However, psychoanalysts after Freud until the last decade of the twentieth century, [5, 6] based their views on the work of Sandor Rado who believed there was no such thing as normal childhood homosexuality.[7] Rado defined adult homosexuality as a phobic avoidance of heterosexuality caused by inadequate, early parenting. His views were highly influential in the pathological models of psychiatrists of the mid-20th century who theorized about homosexuality from a self-selected group of patients seeking treatment and from prison populations.[8,9]

Sexology researchers of the mid-twentieth century tried to make sense of human sexual behavior by studying general populations. They did field research, recruiting large numbers of non-patient subjects for study. The work of Alfred Kinsey and Evelyn Hooker lent support to a growing scientific view that homosexuality, like heterosexuality, is a normal variation of human sexual expression.[10,11,12] American psychiatry at that time, under the sway of psychoanalytic theory, mostly ignored this research and its normalizing conclusions.

In 1970, sexology research was brought forcefully to the attention of the American Psychiatric Association (APA). Organized gay and lesbian activists, convinced that psychiatry’s pathologizing attitudes about homosexuality were a major contributor to social stigma, disrupted the 1970 and 1971 annual APA meetings. As a result, APA embarked upon a process of studying the scientific question of whether homosexuality should be considered a psychiatric disorder. After an extensive review of the literature, the APA’s Board of Trustees, voted to remove homosexuality from the DSM-II in December 1973.[13,14]

With the removal of the diagnosis from the DSM, cultural attitudes about homosexuality changed in the US and other countries. Those who accepted scientific authority on such matters gradually came to accept the view that homosexuality is a normal variant of human sexual expression. Similar shifts gradually took place in the international mental health

community as well. In 1990, the World Health Organization removed homosexuality from the International Classification of Diseases (ICD-10).[15]

Despite these changes in scientific thinking in the last two decades, social and religious conservatives have advanced their own illness/behavior model of homosexuality.[16] These individuals believe that if homosexual behavior can be changed in just one person then homosexuality cannot possibly be an inborn trait like race[17]. They maintain that homosexuality is not inborn and that variations of long disproven psychoanalytic theories of homosexuality's etiology can serve as a basis for offering conversion therapies.[16,17,18,19]

RESEARCH, CLINICAL AND ETHICAL ISSUES

The position that a homosexual orientation can change received a great deal of media attention in 2001 when Robert L. Spitzer, MD presented his study of 200 individuals who claimed to have undergone such changes.[20,21] According to Spitzer, a majority of the study's subjects reported some change from a "predominantly or exclusively" homosexual orientation to a "predominantly or exclusively" heterosexual orientation. There were many methodological criticisms of the study, which was published without conventional peer review.[20] Instead, reviewer commentaries--most of them negative and urging the journal not to publish--accompanied the study's publication. In 2012, Spitzer repudiated his study, writing, "There was no way to judge the credibility of subject reports of change in sexual orientation."[22]

In addition, reviews of the peer-reviewed literature from multiple professional organizations, including the American Psychiatric Association, the American Psychological Association, and the American Academy of Child and Adolescent Psychiatrists, have found no evidence that conversion therapy treatments result in changes in sexual orientation.[23,24,25] There is evidence, however, suggesting these treatments are harmful.[26,27,28,29]

In the past, professional organizations regarded conversion therapies as private agreements between individual patients and therapists. It was believed, either explicitly or implicitly, that efforts to eradicate homosexuality were a reasonable undertaking from which no harm could come.[16] In recent years, however, complaints about poor outcomes have led to greater scrutiny. There is now an emerging clinical focus on individuals who—after attempting and failing conversion therapy—later adopted a gay or lesbian identity. Referring to themselves as "ex-gay survivors," these individuals have begun organizing themselves.[30] An accumulation of patient reports paints a disturbing picture: therapists may be doing psychological damage to patients--and their families--who fail to change and eventually come out as gay or lesbian. Ethical violations in these treatments include:

- Subjective informed consent, i.e., telling patients that homosexuality is a mental disorder because of practitioner beliefs.
- Breaches of confidentiality, i.e., counselors in religious schools informing administration officials about a patient's sexual behavior discussed in therapy, sometimes leading to expulsion.

- Improper pressure placed on patients, i.e., threatening to end treatment if the patients do not submit to the therapist's authority.
- Abandoning patients who eventually decide to come out as gay or lesbian, i.e., unwillingness to refer a patient to a gay or lesbian affirmative therapist when conversion therapy fails.
- Indiscriminate use of treatment, i.e. regardless of the probability of success, conversion therapists will recommend their treatments to anyone.
- Typically, low patient motivation, rather than the skill of a therapist or efficacy of the conversion treatment, is credited as the primary factor interfering with change. This is a set-up for "patient blaming" as most people who try to change do not.[29,31]

These troubling ethical practices have raised alarm in major mental health professions, particularly due to the harm done to patients. Further, all of these factors raise another ethical issue: Even if the questionable claims of conversion therapy's effectiveness are valid, should the conversion of some "homosexuals" to heterosexuality condone the iatrogenic harm done to other patients who later come out as gay or lesbian?[16] In other words, should it not matter how many gay or lesbian people are hurt in the process of creating a few heterosexuals? Some of the harms include:

- Patients who do not change may feel worse and blame themselves, question their faith or their motivation. This may lead to depression, anxiety, and suicidal ideation.
- Some individuals are encouraged to marry during a course of conversion therapy and may have spouses and children when they accept that change has not happened. These families may break apart. In cases where religious beliefs discourage divorce, mixed orientation couples stay living in tragic circumstances.
- Years of trying fruitlessly to change one's sexual orientation can delay the decision to come out as gay or lesbian. When the individual does come out, the experience of conversion therapy, which can be likened to a concentrated dose of antihomosexual stereotyping, may create intimacy and sexual problems. Haldeman refers to this as a "spoiled" gay identity.[28]

CURRENT LEGISLATION

As of this writing, four states (California, New Jersey, Oregon, Illinois), the District of Columbia and the Canadian province of Ontario (Table I) have passed legislation outlawing the practice of conversion therapy by licensed mental health professionals for patients less than 18 years of age. In addition, New Mexico has passed legislation forming a state task force to study the practice of conversion therapy and bring recommendations back to the legislature.

Seventeen additional states have introduced legislation outlawing conversion therapy for minors for the current legislative session. In Oklahoma, an outlier in this area, legislation

was introduced permitting mental health providers to engage in sexual orientation change efforts with a child. However that bill failed to make it out of committee. Overall, this level of legislative action points to the importance of state licensing boards familiarizing themselves with what constitutes conversion therapy in order to adjudicate possible complaints.

RECOMMENDATIONS

Major mental health organizations have rejected conversion therapy as a treatment modality given that there is no rigorous scientific evidence to support the claim that sexual orientation can be changed and there is evidence that these treatments can cause harm to patients. Regulatory bodies must take these issues into consideration when evaluating claims regarding these treatments.

1. While existing legislation only bans conversion therapy for minors, regulatory bodies should develop guidelines to deal with complaints from adults who have been harmed by conversion therapies.
2. As it is likely that more states will be banning conversion therapies for minors, regulatory bodies should create easily accessible mechanisms for the public to register complaints about them.
3. Regulatory bodies whose members do not have expert knowledge about conversion therapies should seek out expert consultation when managing complains about them.
4. Regulatory bodies should develop appropriate guidelines on how to sanction licensed practitioners of conversion therapies.

References

1. Jarrett, V. [Accessed on November 13, 2015] Response to Your Petition on Conversion Therapy. 2015. Retrieved from https://petitions.whitehouse.gov/response/response-your-petition-conversion-therapy
2. Bullough, VL. Homosexuality: A History. New York: Meridian; 1979.
3. Krafft-Ebing, R. Psychopathia Sexualis. Wedeck, H., translator. New York: Putnam; 1965.
4. Freud, S. Standard Edition of the Complete Psychological Works of Sigmund Freud. Vol. 7. London: Hogarth Press; 1957. Three essays on the theory of sexuality; p. 123-246.
5. American Psychoanalytic Association. [Accessed on November 13, 2015] Position Statement on Attempts to Change Sexual Orientation, Gender Identity, or Gender Expression. 2012. Retrieved from http://www.apsa.org/sites/default/files/2012%20Position%20Statement%20on%20Attempts%20to%20Change%20Sexual%20Orientation%2C%20Gender%20Identity%2C%20or%20Gender%20Expression.pdf
6. American Psychoanalytic Association. [Accessed on November 13, 2015] Position Statement on Sexual Orientation, Gender Identity, and Civil Rights. 2012. Retrieved from http://www.apsa.org/sites/default/files/2012%20Position%20Statement%20on%20Sexual%20Orientation%2C%20Gender%20Identity%2C%20and%20Civil%20Rights.pdf
7. Rado S. A critical examination of the concept of bisexuality. Psychosomatic Medicine. 1940; 2:459–467.
8. Bieber; Dain, HJ.; Dince, PR.; Drellich, MG.; Grand, HG.; Gundlach, RR.; … Bieber, TB. Homosexuality: A Psychoanalytic Study of Male Homosexuals. New York: Basic Books; 1962.

9. Socarides, CW. The Overt Homosexual. New York: Grune & Stratton; 1968.
10. Kinsey, AC.; Pomeroy, WB.; Martin, CE. Sexual Behavior in the Human Male. Philadelphia: W.B. Saunders; 1948.
11. Kinsey, AC.; Pomeroy, WB.; Martin, CE.; Gebhard, PH. Sexual Behavior in the Human Female. Philadelphia: Saunders; 1953.
12. Hooker EA. The adjustment of the male overt homosexual. J Proj Tech. 1957; 21:18–31. [PubMed: 13417147]
13. Bayer, R. Homosexuality and American Psychiatry: The Politics of Diagnosis. New York: Basic Books; 1981.
14. Drescher, J.; Merlino, JP., editors. American Psychiatry and Homosexuality: An Oral History. New York: Haworth Press; 2007.
15. Cochran SD, Drescher J, Kismodi E, Giami A, García-Moreno C, Reed GM. Proposed declassification of disease categories related to sexual orientation in ICD-11: Rationale and evidence from the Working Group on Sexual Disorders and Sexual Health. B World Health Organ. 2014; 92:672–679. Retrieved from http://www.ncbi.nlm.nih.gov/pmc/articles/PMC4208576/pdf/BLT.14.135541.pdf.
16. Drescher J. Ethical issues in treating gay and lesbian patients. Psychiatr Clin North Am. 2002; 25(3):605–621. [PubMed: 12232974]
17. Drescher J. The Spitzer study and the culture wars. Arch Sex Behav. 2003; 32(5):431–432.
18. Drescher J. I'm your handyman: A history of reparative therapies. J Homosex. 1998; 36(1):19–42. [PubMed: 9670099]
19. Drescher J. Can sexual orientation be changed? J Gay & Lesb Ment Health. 2015; 19(1):84–93.
20. Drescher, J.; Zucker, KJ., editors. Ex-Gay Research: Analyzing the Spitzer Study and Its Relation to Science, Religion, Politics, and Culture. New York: Harrington Park Press; 2006.
21. Spitzer RL. Can some gay men and lesbians change their sexual orientation?: 200 subjects reporting a change from homosexual to heterosexual orientation. Arch Sex Behav. 2003; 32(5): 403–417. [PubMed: 14567650]
22. Spitzer RL. Spitzer reassesses his 2003 study of reparative therapy of homosexuality. Arch Sex Behav. 2012; 41(4):757. [PubMed: 22622659]
23. Adelson SL. American Academy of Child and Adolescent Psychiatry (AACAP) Committee on Quality Issues (CQI). Practice parameter on gay, lesbian, or bisexual sexual orientation, gender nonconformity, and gender discordance in children and adolescents. J Am Acad Child Adolesc Psychiatry. 2012; 51(9):957–974. [PubMed: 22917211]
24. American Psychological Association Task Force on the Appropriate Therapeutic Response to Sexual Orientation. Report of the Task Force on the Appropriate Therapeutic Response to Sexual Orientation. Washington, DC: American Psychological Association; 2009.
25. American Psychiatric Association Commision on Psychotherapy by Psychiatrists. Position statement on therapies focused on attempts to change sexual orientation (reparative or conversion therapies). Am J Psychiatry. 2000; 157(10):1719–1721. [PubMed: 11183192]
26. Beckstead AL. Can we change sexual orientation? Arch Sex Behav. 2012; 41(1):121–134. [PubMed: 22350128]
27. Beckstead AL, Morrow SL. Mormon clients' experience of conversion therapy: The need for a new treatment approach. Couns Psychol. 2004; 32(5):651–690.
28. Haldeman DC. Therapeutic antidotes: Helping gay and bisexual men recover from conversion therapies. J Gay & Lesb Psychother. 2002; 5(3/4):117–130.
29. Shidlo A, Schroeder M. Changing sexual orientation: A consumers' report. Prof Psychol Res Pr. 2002; 33(3):249–259.
30. [Accessed on November 13, 2015] Beyond Ex-Gay: An online community for those who have survived ex-gay experiences. Retrieved from http://www.beyondexgay.com
31. Salzer, A.; Salomon, A. Abomination: Homosexuality and the Ex-Gay Movement: Frameline. 2006. (Writers)
32. [Accessed on November 13, 2015] #BornPerfect: Laws & Legislation by State. 2015. Retrieved from http://www.nclrights.org/bornperfect-laws-legislation-by-state

33. Washington State Legislature. [Accessed on November 13, 2015] 2015. Retrieved from http://app.leg.wa.gov/billinfo/summary.aspx?bill=5870&year=2015

34. Library of Congress. [Accessed on November 13, 2015] 2015. Retrieved from http://thomas.loc.gov/cgi-bin/thomas

35. Legislative Assembly of Ontario. [Accessed on November 13, 2015] 2015. Retrieved from http://www.ontla.on.ca/web/bills/bills_detail.do?locale=en&BillID=3197&detailPage=bills_detail_status

Table 1

Status of Laws Banning Conversion Therapy

State/Province	Passed	Pending	Failed	Bill/Resolution Number	Bill/Resolution Title	Date of Last Action on Bill/ Resolution
AZ		x		SB1464	Sexual orientation change efforts; prohibition.	02/03/2016
CA	x			SB 1172	Sexual orientation change efforts.	09/19/2012
CO			x	HB1210	A bill for an act concerning a prohibition on conversion therapy by a licensed mental health provider.	04/11/2016
CT			x	HB5530	An act concerning health care services relating to a minor child's sexual orientation.	01/16/2015
DC	x			B 20-0501	Conversion Therapy for Minors Prohibition Amendment Act of 2014	12/22/2014
FL			x	S 0258/H 0137	An act relating to sexual orientation changes efforts.	03/11/2016
GA		x		HB716	An act prohibiting sexual orientation conversion therapy to people under 18 year old.	01/27/2016
HI		x		SB2615	Prohibits sexual orientation conversion therapy for minors.	03/08/2016
IL	x			HB0217/SB0111	Creates the Youth Mental Health Protection Act.	08/20/2015
IA			x	HF276/SF334	A bill for an act relating to sexual orientation change efforts and making penalties applicable.	03/17/2015
MA		x		HL 97	An act relative to abusive practices to change sexual orientation and gender identity in minors.	01/11/2016
MN		x		HF1620/SF1213	Conversion therapy with children or vulnerable adults prohibited, and medical assistance coverage for conversion therapy prohibited.	03/09/2015
NV			x	SB353	Enacts provisions relating to sexual orientation conversion therapy.	06/02/2015
NH			x	HB1661	Relative to conversion therapy seeking to change a person's sexual orientation.	05/26/2016
NJ	x			A 3371/S 2278	An act concerning the protection of minors from attempts to change sexual orientation and supplementing Title 45 of the Revised Statutes.	08/19/2013
NY		x		AO4958/SO0121	Designates as professional misconduct engaging in sexual orientation change efforts by mental health care professionals upon patients under 18 years of age.	05/16/2016
OH		x		SB74	To enact sections 4723.93, 4731.96, 4732.34, 4743.09, and 4757.46 of the Revised Code to prohibit certain health care professionals from engaging in sexual orientation change efforts when treating minor patients.	06/11/2015
ON	x			Bill 77/S.O. 2015 C.18	Affirming Sexual Orientation and Gender Identity Act.	06/04/2015
OR	x			HB2307	Relating to efforts to change an individual's orientation and declaring an emergency.	05/19/2015
PA		x		HB935/SB45	An act prohibiting mental health professionals from engaging in conversion therapy with an individual under 18 years of age.	04/08/2015
RI		x		S2827	Prevention of conversion therapy for children.	05/26/2016

State/Province	Passed	Pending	Failed	Bill/Resolution Number	Bill/Resolution Title	Date of Last Action on Bill/ Resolution
TX		x		HB3495	An act relating to unprofessional conduct by mental health providers who attempt to change sexual orientation of a child.	03/18/2015
VT	x			S0132	An act relating to the prohibition of conversion therapy on minors	05/25/2016
VA		x		SB262/HB427	Sexual orientation change-efforts prohibited.	02/16/2016
WA		x		HB 1972/SB5870	Prohibiting the use of aversion therapy in the treatment of minors.	03/10/2016
WV		x		HB4343	The Youth Mental Health Protection Act.	02/01/2016
U.S. Congress		x		HB 2450/SR 184	Therapeutic Fraud Prevention Act/Stop Harming Our Kids Resolution of 2015.	05/22/2015

Sources

http://www.nclrights.org/bornperfect-laws-legislation-by-state[32]

http://app.leg.wa.gov/billInfo/summary.aspx?bill=5870&year=2015[33]

http://thomas.loc.gov/cgi-bin/query[34]

http://www.ontla.on.ca/web/bills/bills_detail.do?locale=en&BillID=3197&detailPage=bills_detail_status.[35]